V.—GOVERNMENT BILL.

THE MADRAS ESSENTIAL ARTICLES CONTROL AND REQUISITIONING (TEMPORARY POWERS) AMENDMENT BILL, 1950 (L.A. BILL NO. 19 OF 1950).

THE HON. SRI J. L. P. ROCHE VICTORIA :—" Sir, I beg to move—

> '*that the Madras Essential Articles Control and Requisitioning (Temporary Powers) Amendment Bill*[a] 1950 (*L.A. Bill No.* 19 *of* 1950), *as passed by the Assembly, be taken into consideration.*'

" As set out in the Statement of Objects and Reasons, the Government consider that the life of the Madras Essential Articles Control and Requisitioning (Temporary Powers) Act, 1949, which expires on the 30th September 1950 should be continued for a further period of one year, that is, up to and inclusive of the 30th September 1951. Clause 2 is intended to give effect to this object. Clauses 3 and 4 of the Bill seek to bring section 5 of the Act in so far as it relates to the payment of compensation for movable property requisitioned or acquired under the Act, into accord with the provisions of Article 31 (2) of the Constitution."

DEPUTY CHAIRMAN :—" The motion is—

'that the Madras Essential Articles Control and Requisitioning (Temporary Powers) Amendment Bill, 1950 (L.A. Bill No. 19 of 1950), as passed by the Assembly, be taken into consideration.' "

The motion is now before the House for discussion.

* SRI R. SURYANARAYANA RAO :—" Mr. Deputy Chairman, Sir, when a similar Bill came up before this House in 1949, some of us on this side of the House wanted the Government to examine how far the provisions that they were enacting were necessary for the carrying on the administration. We found then that the Bill was a mere repetition of the previous Bills of the Defence of India Rules. Many of the provisions sought to be re-enacted were practically dead letters before. In bringing forward this Bill, we find that the Government have not examined how far the provisions that they want to re-enact now with the amendments are necessary. There is one such provision in the amendment proposed. May I ask in how many cases the powers of requisition and acquisition have been exercised? Are those powers, especially the power of acquisition, necessary at all? If the power has not been used in the past, why are the Government re-enacting the section and amending it to bring it into line with the Constitution? There are also curious provisions. I do not know how acquisition can be of a temporary character. I can understand requisition being of a temporary character. I read the Land Acquisition Act (Central Act) and the discussion on it. But nowhere did I find reference to ' temporary acquisition '. Suppose a building or a piece of land is acquired temporarily, compensation is settled under the provisions of the Act. When the temporary

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a Printed as Appendix V on pages 300–301 infra.

period ceases and the Government give back the house or land, is it their contention that the owner should give back the compensation that he has received and take possession of the property? I do not think the Land Acquisition Act or even the word 'acquisition' contemplates that it can be of a temporary character.

"One redeeming feature is clause 3 which proposes to omit sub-section (1) of section 5, thereby providing compensation for acquisition of movable property which is to be governed by Statute and not by the rules framed by the Government.

"The value of the immovable property to be paid is not the market value on the date of the acquisition but the value on the date of the requisition. This is nothing but expropriatory and unheard of legislation. Let us assume that to-day the Government requisition a building for housing a co-operative store, and later on the store brings pressure on the Government to acquire the building for it. The value that the owner will get is not the market value on the date of the acquisition but the value on the date of the requisition. This is very unfair. Even as it is, the Land Acquisition Act is unfair inasmuch as the compensation payable is the value of the land as on the date of the notification under section 4 (1). We had a great deal to do with this section in connection with the acquisition of lands and houses in the Tungabhadra Project area. The lands and houses were notified under section 4 (1) of the Land Acquisition Act in 1941 or 1942 and now the Government want to give compensation based on the value on the date of notification. We have been contending that if a person is deprived of a house or an acre of land, he should be given sufficient compensation to enable him to purchase another house or an acre of land somewhere else for his use or to maintain himself.

11-30 a.m. "Sir, we have been urging that justice should be done in the case of owners whose properties are to be acquired under this Act and I must acknowledge that the Hon. Minister for Public Works has been very sympathetic and has been trying to get *ex gratia* grants in certain cases, in addition to paying compensation under the Land Acquisition Act. That means that it is not as a matter of right that the landlords or houseowners get reasonable compensation for the properties acquired, but that the Government are pleased to give the *ex gratia* grants. In respect of properties coming within the purview of this bill, perhaps in some cases the houses requisitioned now might be acquired later on and some influence might be brought to bear upon the Government to secure an *ex gratia* grant in addition to the market value on the date of requisition. I do not know how and why this idea of fixing the value of the property as on the date of requisition had entered into the mind of the Government, overriding even section 4 (1) of the Land Acquisition Act. Does it mean that the order of requisition amounts to a notification under section 4 (1) of the Land Acquisition Act? Sir, I am not a lawyer, but I am afraid

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that there may be some legal flaw in this matter and difficulties might crop up later on. I do not know, Sir, whether the Hon. Minister had looked into it, but it seems to me that it is unjust and improper to fix the value from the date of requisition, when acquisition proceedings are started some years hence. Fortunately, Sir, the only redeeming feature of this measure is that it is going to be in force for only one year. But if the Government find it necessary, owing to circumstances beyond their control, they might again come up before this House and also the other House with a request to have the life of this Act extended for another year. I wish, Sir, that this amendment which the Government seek to introduce now, had not been introduced at all, and allowed the Land Acquisition Act to come into operation when they desire to acquire the land.

" Sir, there is another provision in this Bill, about which I should like to have some clarification. The Government are now requisitioning houses for the purpose of locating their offices or even for providing accommodation for their officers. May I know from the Hon. Minister whether the provisions of this Act can be applied, if in case they propose to acquire them later on, and whether such lands and buildings can be acquired permanently, by paying the value as on the date of requisition, even though their value might have appreciated considerably by the time the acquisition proceedings take place. It seems to me, Sir, that this is a most extraordinary piece of legislation which has been brought forward by the Government in order to deprive people of their rights to property. If really the Government want to acquire any property for any public purpose, by all means, let them do so, paying the owners the value that is due to them under the Land Acquisition Act, but not seek to apply this Act, which I am afraid, would inflict a hardship on those owners."

* THE HON. SRI K. MADHAVA MENON :—" Mr. Deputy Chairman, Sir, I think the same point was raised in the other House by my hon. Friend Mr. A. Vaidyanatha Ayyar and was answered by me. In fact, Mr. Vaidyanatha Ayyar's contention was that this Bill was more advantageous to the owners than perhaps the provision under the Land Acquisition Act, in regard to the payment of compensation. Section 5 (*d*) of the original Act says—

' The arbitrator in making his award shall have regard to—

(i) the provision of sub-section (1) of section 23 of the Land Acquisition Act, 1894, so far as the same can be made applicable ; and

(ii) whether the acquisition is of a permanent or temporary character :

Provided that where the property requisitioned is subsequently acquired, the arbitrator, in any proceedings in connection with such acquisition, shall, for the purposes of the provisions of the said section 23, take into consideration the market value of the property at the date of requisition and not at the date of its subsequent acquisition.'

" Sir, there is no provision for payment of compensation in the case of movable properties in the original Act, and that has been provided for in this Amending Bill. And in fact the other

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provisions in regard to the method of calculating compensation have been retained, and there is practically no difference between the original Act and this Amending Bill in that respect. The present amendment says—

'The arbitrator in making his award shall have regard to—

(i) in the case of movable property, to its market value ;

(ii) in the case of immovable property, to the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894, so far as the same can be made applicable and to the fact whether the acquisition is of a permanent or temporary character :

Provided that where any property requisitioned is subsequently acquired, the arbitrator, in any proceedings in connexion with such acquisition, shall, for the purposes of this clause, take into consideration, the market value of the property at the date of the requisition as aforesaid and not at the date of its subsequent acquisition.'

"My hon. Friend Mr. R. Suryanarayana Rao will therefore see that this Amending Bill only seeks to work to the advantage of the owner, because the arbitrator will take not only the provisions of the Land Acquisition Act into consideration, but also the market value of the property on the date of requisition, for arriving at the compensation to be fixed for the property to be acquired. Perhaps my hon. Friend Mr. Suryanarayana Rao might object to the subsequent proviso in this Amending Bill. The same objection was raised by my hon. Friend Mr. A. Vaidyanatha Ayyar in the other House, but he would have noticed that the wording in the proviso is only a verbal alteration and does not in any way change the intention of the original provision. In the amended proviso, the words, "for the purposes of this clause", have been substituted for the words "for the purposes of the provision of the said section 23" in the original Act. Therefore, Sir, there is practically no difference between the original Act and the amendment, except that the amendment provides for the payment of compensation in the case of movable properties also, which are to be acquired, after they have been requisitioned.

"Sir, it is true that in certain cases there might be some apparent unfairness, if compensation were calculated on the market value on the date of requisition. The owner might not know that his properties were going to be acquired and subsequently the value of the property might have enhanced or decreased. But the chances are that, in most cases, according to the present conditions the properties might have enhanced in value after the date of requisition. Perhaps it is this point that my hon. Friends Mr. Suryanarayana Rao in this House and Mr. Vaidyanatha Ayyar in the other House want to be clear about, and both of them want that the enhanced value should be paid to the property owners so that they might have the market value as on the date of acquisition and not on the date of requisition. Sir, if that were so, then it would amount to a matter of policy being laid down by the House, that is to say, that the Government would be tying down the hands of the arbitrator to decide compensation

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according to a certain method. As my hon. Friend Mr. R. Suryanarayana Rao has pointed out, under the Land Acquisition Act, after a notification under section 4 (1) has been published, the price on the date of notification shall be the price to be paid as compensation. Now he says that the date of requisition in this case would take the place of a notification under section 4 (1) of the Land Acquisition Act, and therefore it might not be fair to fix the compensation as on the date of requisition, but that compensation should be paid on the market value on the date of acquisition. My answer to him is this. Apart from the question whether the House is to lay down the policy as to what the Government should pay, I think, it is much better that we do not tie down the hands of the arbitrator and tell him that he should calculate compensation in such and such a manner. Therefore, we have simply said that he shall take the market value on the date of requisition into consideration in deciding the compensation to be paid. Of course, he would take various factors into consideration and then only he would decide the amount of compensation. We have said that the market value on the date of requisition should also form one of such factors for him to consider, in arriving at the compensation to be awarded. Sir, it is only right and proper that we should not allow the entire advantage of the unearned income to only one party to the transaction. Because the Government have requisitioned the property on a previous date, and want to acquire it later on, it should not be contended that the entire benefit of the unearned income should go to the owner only. That is the reason why we have said that if that property is to be subsequently acquired, the market value of the property as on the date of requisition should also be taken into consideration, in arriving at the compensation to be paid.

" Sir, I might mention at this juncture that no concrete case has arisen where properties which had been requisitioned are sought to be acquired by applying this Act. Nor is it the intention of the Government to deprive the owner of his property without paying fair and adequate compensation. My hon. Friend Mr. R. Suryanarayana Rao said that we are requisitioning houses for Government servants or for locating Government offices. I submit, Sir, that he is entirely wrong in thinking so. We are not requisitioning houses with the object of acquiring them at a later date under the Essential Control Articles Control and Requisitioning (Temporary Powers) Act. The nature of control that we are exercising under the Rent Control Act, is only this, viz., that we want to see that priority is given to Government servants when houses fall vacant. We are only stepping into the shoes of a tenant in such cases and not as prospective purchaser of those houses. The landlord still remains the owner and the relation between the landlord and the tenant continues as such. There is no question of acquisition in such cases and the Government will not go out of their way to acquire such houses either for their officers or for locating their offices.

Even if any such extreme case arises, we have provided in this Bill that the owner should not be deprived of his fair and proper compensation and the arbitrator has been given full discretion to go into all these matters and give his award. With these words, Sir, I once again commend the Bill for the acceptance of the House."

DEPUTY CHAIRMAN :—" The question is —

'that the Bill to amend the Madras Essential Articles Control and Requisitioning (Temporary Powers) Bill, 1950 (L.A. Bill No. 19 of 1950) as passed by the Assembly be taken into consideration.' "

The motion was put and carried.

Clause 2 was put and carried.

Clauses 3 and 4.

* SRI R. SURYANARAYANA RAO :—" Mr. Deputy Chairman, Sir, I move the following amendments standing in my name, namely :—

'(1) *In new clause* (*d*) (*ii*) *proposed by clause* 3 (*ii*) (*c*) omit *the words* '*and to the fact whether the acquisition is of a permanent or temporary character.*

(2) *In new clause* (*d*) *proposed by clause* 3 (*ii*) (*c*) omit *the proviso.*

(3) *In clause* 4 omit *the words* '*requisitioned or*'."

" Sir, the Hon. Minister for Law did not answer my point regarding this temporary or permanent character of the acquisition. He himself has admitted that there might be anomalies and hard cases and therefore perhaps he has not argued in favour of it. I suggest, Sir, that this provision should be omitted altogether. When there is at present an opportunity to rectify what we think is wrong, is it not better that we rectify it here and now instead of leaving it to the discretion of the arbitrator? Sir, by omitting these words 'and to the fact whether the acquisition is of a permanent or temporary character' in sub-clause 3 (ii) (*d*) (ii), all that we do is to allow the arbitrator to settle the value of the property under sub-section (1) of section 23 of the Land Acquisition Act. Sir, if, according to my amendments, this and the next proviso are also omitted, it comes to this that the mere fact that the land or the building had been requisitioned does not entitle the Government to have the property acquired without a notification under section 4 (1) of the Land Acquisition Act. What I want is that all the procedure laid down in the Land Acquisition Act should be gone through, when the Government decide to acquire the property, whether it is land or building, because when the land or building is requisitioned, the owner knows that it is only for a temporary period and that he

would be put in possession of the same as soon as the necessity for such requisition ceases. But in this case, after some time, the Government, all of a sudden, make up their mind to acquire the property under this Act and not go through the process laid down in the Land Acquisition Act. That I submit, Sir, is unfair.

"Secondly, Sir, I cannot understand what is the meaning of the term 'temporary character of the acquisition'. My Hon. Friend the Minister for Law did not explain it clearly. The Government acquire the properties, pay compensation, whether it is the value on the date of requisition or on the date of acquisition, and then the properties pass into the hands of the Government. Then what is meant by temporary acquisition? I have not come across instances where they have temporarily acquired or felt the need for temporary acquisition. I can understand if they can give instances. I think it will be fair to everybody to take out this temporary character. What will the courts who have to interpret this think of us? We see that the courts are not favourably disposed to our legislatures. It is our duty to see that any legislation that we pass is just, fair and consistent with certain principles and procedure that we follow. I feel, Sir, that the Government will be well-advised to accept this amendment, and allow the ordinary courts of law to function.

11-45 a.m.

"The proviso to this clause is practically restricting the discretion of the arbitrator. The words used are 'shall for the purpose of this clause'. The Hon. the Minister for Law stated that it was only a direction, and that the arbitrator was not bound to be guided by it. But the words used in the proviso are 'shall' for the purpose of this clause, take into consideration . . ."

THE HON. SRI K. MADHAVA MENON :—"It is only 'shall take into consideration'."

* SRI R. SURYANARAYANA RAO :—"What does it mean? The arbitrator naturally will first ascertain the value on the date of requisition, and if the party wants him to take into consideration the market value at the time of acquisition, he is not bound to do so. He will simply say that the statute requires 'shall take into consideration the market value of the property at the date of the requisition', and he will pass the award. I think, Sir, that proviso should be dropped. I do not deny the right to Government to requisition or acquire properties when they are needed for public purposes. All that I want is that the persons who are affected by such acquisition should be dealt with fairly. I think that it is fair that we the Members of this House, whatever may be the views of the Government on this, should be fair to all parties affected by the provisions of this Bill.

"Sir, I move my amendments."

SRI M. JAGANNATHAM :—"I second the amendments, Sir."

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* THE HON. SRI K. MADHAVA MENON :—" Sir, with regard to the first amendment proposed by the hon. Member Sri R. Suryanarayana Rao, I wish to say that the only contingency that the Government can think of in the case of a temporary acquisition is that, after the period is over, the party, from whom the property was acquired, is entitled to take it back. But if it is a permanent acquisition, the Government after acquiring it can do anything they like with it. But what has been provided in this clause is that, whether it is temporary acquisition or permanent acquisition, the value should be the market value. I cannot exactly now visualize the contingencies where there should be temporary acquisitions for a particular period or permanent acquisitions. I can certainly visualize cases under the Land Acquisition Act, whether the acquisition is temporary or permanent in character. Even if it is temporary acquisition, the value should be paid according to the Land Acquisition Act. But if it is temporary acquisition, after the end of the period, the party will be entitled to get the property back. I cannot conceive of any other meaning than this. If temporary acquisition is not provided for, the party cannot get back the property. I do not see any particular difficulty if the amendment is accepted but there is this danger that all acquisitions will become permanent, and the parties will not be able to get back their properties after the period for which they were required by the Government. Here it is only a sort of pre-emption in legal parlance. If it is only a temporary acquisition, the party has got a right to get it back after the purpose is served. That is the only necessity to say permanent and temporary.

" Regarding the other amendment, I have exhaustively dealt with it in my original remarks. We must be fair to all parties concerned. Take for instance that a particular property was requisitioned. At the time of requisition the market value of the property was only Rs. 1,000. At the time of acquisition the value has gone up to Rs. 2,000. The proviso as it stands does not prevent the arbitrator from giving him Rs. 2,000. He can give any amount between Rs. 1,000 and Rs. 2,000. The proviso says that he ' shall take into consideration what the value of the property was '. The value of the building was only Rs. 1,000 at the time it was requisitioned. Subsequently, due to various reasons the value has increased to Rs. 2,000. It is open to the arbitrator to give the entire unearned income to the party. It is only a discretion or latitude given to the arbitrator to consider the market value of the property at the time it was requisitioned. He may take this also into consideration. I still maintain that the proviso does not say ' shall pay ' the market value at the time it was requisitioned. If that is the wording, I can understand the argument of the hon. Member Mr. Suryanarayana Rao. That is not the wording. The wording is ' shall, for the purpose of this clause, take into consideration the market value. . . .' My hon. Friend would be right if the wording is ' shall pay '. But it is not

so. In fixing the value of the property, there are so many things to be taken into consideration, and the market value at the time of requisition, is one of those considerations. If the enhancement in price is not entirely due to any effort on his part, the arbitrator need not necessarily pay the market value on the date of acquisition or the market value at the time of requisition. Therefore, Sir, there is no necessity to accept the amendments. I oppose the amendments."

* SRI R. SURYANARAYANA RAO :—" Is not the purpose of requisition served by temporary acquisition? "

* THE HON. SRI K. MADHAVA MENON :—" There will be difficulty. In requisition, the limit within which the Government can use the property or alter it or make changes in it, is much less than in the case of acquisition."

* SRI R. SURYANARAYANA RAO :—" What is to become of the temporarily acquired property? If it is to be restored to the party, is the party, who receives compensation under this Bill, to pay back the amount of compensation he has received? So many difficulties will arise out of this proviso. I do not know how the Government do not envisage all this. To-day the Government may acquire a property temporarily. Later on they may not require it. As soon as it is acquired, the party is entitled to compensation. (The Hon. Sri K. Madhava Menon : ' Yes '.) When the Government do not need the property, and hand it over to the party, they will ask him to pay back the compensation. All kinds of difficulties, which the court alone could envisage will arise. I think, Sir, the words ' temporary character ' should be omitted. If the Government acquire any property, let them acquire it permanently. After all, they can sell it to others, when they do not need it, and make money out of it. Various difficulties will arise on account of this ' temporary character '."

THE HON. SRI K. MADHAVA MENON :—" I really cannot understand the argument of the hon. Member Mr. Suryanarayana Rao. If the party wants the property back, he has to pay back the compensation."

SRI R. SURAYANARAYANA RAO :—" You call it ' temporary character ' anyhow."

THE HON. SRI K. MADHAVA MENON :—" The very distinction between permanent and temporary is that after the period for which the property is required, the party will be entitled to get it back."

DEPUTY CHAIRMAN :—" The question is—

' (1) In new clause (*d*) (ii) proposed by clause 3 (ii) (*c*) *omit* the words " and to the fact whether the acquisition is of a permanent or temporary character ".

In new clause (*d*) proposed by clause 3 (ii) (*c*) *omit* the proviso.

'(2) In clause 4 *omit* the words "requisitioned or'."

The amendments were put and lost.

Clauses 3 and 4 were put and carried.

Clause 1 was put and carried.

The Preamble was put and carried.

THE HON. SRI J. L. P. ROCHE VICTORIA :—" Sir, I move—

'*that the Madras Essential Articles Control and Requisitioning (Temporary Powers) Amendment Bill*, 1950 (*L.A. Bill No.* 19 *of* 1950), *as passed by the Assembly, be passed*'."

DEPUTY CHAIRMAN :—" The motion is—

'that the Madras Essential Articles Control and Requisitioning (Temporary Powers) Amendment Bill, 1950 (L.A. Bill No. 19 of 1950), as passed by the Assembly, be passed'."

The motion was carried.

VI.—ANNOUNCEMENT *RE* MONEY BILLS—CHAIRMAN'S FINDINGS.

DEPUTY CHAIRMAN :—" Before we proceed to the next item on the agenda, I have to make the following announcement on behalf of the Hon. Chairman regarding Money Bills, because the next Bill on the agenda is a Money Bill. The following findings are given by the Hon. Chairman regarding Money Bills :—

'(1) In the case of Money Bills also as in the case of other Bills, there ought to be three readings.

(2) If at the stage of second reading any recommendations or amendments to various clauses are approved by the House, the appropriate motion for the third reading will be as follows :—

"I move that the Bill be returned to the Legislative Assembly with the following recommendations."

(3) If there are no recommendations, the appropriate motion for the third reading will be 'that the Bill be read a third time and passed'.

(4) It is incumbent on the Government to take the Bill through all the three stages and make the appropriate motions if they want to proceed with the Bill. It will not be open to them to refuse to make the appropriate motion.'

"The reasons for these motions will be given later."

THE HON. SRI B. GOPALA REDDI :—" Was this discussed at the Speakers' Conference?"